

BOARDS AND COMMISSIONS
Kentucky Applied Behavior Analysis Licensing Board
(New Administrative Regulation)

201 KAR 43:090. Voluntary inactive and retired status.

RELATES TO: KRS 319C

STATUTORY AUTHORITY: KRS 319C

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C authorizes the board to promulgate administrative regulations required to establish conditions for inactive and retired status. This administrative regulation establishes procedures for inactive and retired status.

Section 1. Conditions for Inactive Status. Inactive status may be granted to a licensee who is currently not working as a behavior analyst or assistant behavior analyst within the Commonwealth of Kentucky but intends to resume providing those services in the future.

Section 2. Application for Inactive Status. (1) A licensee requesting inactive status shall submit a completed an "Application for Inactive or Retired Status", Form ABA-005, to the board and include the following information:

- (a) Current home address, email address, and phone number;
 - (b) Final date of employment in the practice of applied behavior analysis within the Commonwealth of Kentucky; and
 - (c) Anticipated date of return to employment in the practice of applied behavior analysis within the Commonwealth of Kentucky.
- (2) Terms and Responsibilities. Individuals on inactive status shall:
- (a) Continue to receive general licensure updates from the board; and
 - (b) Comply with the code of ethical standards as established in 201 KAR 43:040.

Section 3. Reactivation Requirement for Inactive Status. A licensee seeking restoration to active status shall:

- (1) Notify the board prior to returning to practice in Kentucky by submitting a Renewal and Reinstatement Application, Form ABA-004 and paying the required fees as established in 201 KAR 43:030, including a reinstatement fee.
- (2) A licensee seeking reinstatement shall also meet certification and licensure requirements as provided in KRS 319C.080 and show an active BCBA certification.
- (3) Individuals on inactive status shall not practice or use state licensure initials, including LBA, LaBA, TLBA, and TLaBA.
- (4) Failure to complete reinstatement of a license prior to practicing applied behavior analysis in Kentucky shall constitute a violation of the Kentucky Applied Behavior Analyst Board code of ethical standards as established in 201 KAR 43:040 and shall result in referral to the board for the complaint and/or disciplinary process, in accordance with the procedures outlined in 201 KAR 43:060.
- (5) Upon resumption of practice, the licensed assistant behavior analyst shall document compliance with supervisory requirements and shall report on his or her activities and employment related to behavior analysis during the period in which the analyst did not practice.

Section 4. Conditions for Retired Status. (1) Retired status is an acknowledgement of service that may be granted to a licensed behavior analyst or licensed assistant behavior analyst

who has retired and will no longer be conducting the practice of applied behavior analysis in any jurisdiction.

(2) The board may grant retired status to a licensee if the individual:

(a) Is at least sixty-five (65) years of age; or

(b) Has been a license holder in the Commonwealth of Kentucky for at least twenty-five (25) years; or

(c) Suffers an illness or medical disability that renders the licensee unable to continue the practice of applied behavior analysis.

Section 5. Application for Retired Status. (1) Retired status may be granted to a licensee upon submission of a completed an "Application for Inactive or Retired Status", Form ABA-005, to the board and should include the following information:

(a) Current home address, email address, and phone number;

(b) Condition(s) meeting eligibility for retired status; and

(c) Final date of employment in the practice of applied behavior analysis within the Commonwealth of Kentucky.

(2) Terms and Responsibilities. A credential holder granted retired status by the board shall:

(a) Be relieved of the obligation to pay the renewal fees under 201 KAR 43:030; and

(b) Use the designation "-R" at the end of the acronym for the appropriate credential such as, LBA-R or LaBA-R; and

(c) Shall comply with the code of ethical standards as established in 201 KAR 43:040.

Section 6. Incorporation by Reference. (1) Form ABA-005, "Application for Inactive or Retired Status", October 2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Applied Behavior Analysis Licensing Board, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be found on the board's Web site at aba.ky.gov.

DR. ERICK DUBUQUE, Board Chair

APPROVED BY AGENCY: November 11, 2021

FILED WITH LRC: November 15, 2021 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 31, 2022 at 2:00 p.m. in Room 133, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing, which may be found at: <https://governor.ky.gov/covid-19>. Members of the public may utilize the following link to attend the meeting by video conference:

Join from PC, Mac, Linux, iOS or Android:
<https://us06web.zoom.us/j/88507454480?pwd=NnAwczNBZTU5TnA3YkRvYWd1Z01MZZ09>

Password: 729285

Or Telephone:

Dial:

USA 713 353 0212

USA 8888227517 (US Toll Free)

Conference code: 913047

Find local AT&T Numbers:

<https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=913047>

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)

149.137.68.253 (Mexico)

69.174.57.160 (Canada Toronto)

65.39.152.160 (Canada Vancouver)

207.226.132.110 (Japan Tokyo)

149.137.24.110 (Japan Osaka)

Meeting ID: 885 0745 4480

Password: 729285

SIP: 88507454480@zoomcrc.com

Password: 729285

Individuals interested in attending this hearing shall notify this agency in writing by January 24, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until January 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Kevin Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, phone (502) 782-8805, fax (502) 564-3969, email KevinR.Winstead@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin Winstead

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 319C authorizes the board to promulgate administrative regulations required to establish conditions for inactive and retired status. This administrative regulation establishes procedures for inactive and retired status.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 319C.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C authorizes the board to promulgate administrative regulations required to establish conditions for inactive and retired status. This administrative regulation establishes procedures for inactive and retired status.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 319C by carrying out the legislative mandate for the board to establish regulations for the practice of behavior analysis.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new regulation.

(b) The necessity of the amendment to this administrative regulation: n/a

(c) How the amendment conforms to the content of the authorizing statutes: n/a

(d) How the amendment will assist in the effective administration of the statutes: n/a

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect 11 licensed assistant behavior analysts, 482 licensed behavior analysts, 6 temporary behavior analysts, and 6 temporary registered telehealth providers, should they seek inactive or retired status.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: This regulation provides requirements for obtaining inactive or retired license status, including application and payment of fees.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: \$100 to obtain retired or inactive status.

(c) As a result of compliance, what benefits will accrue to the entities: This regulation provides instruction as to how to obtain inactive or retired status.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation does not create a cost for the administrative body.

(b) On a continuing basis: This administrative regulation does not create a cost for the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Applied Behavior Analysis Licensing Board is self-funded through the fees paid by licensees. No additional funding is necessary for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases in fees or funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: By reference to the newly amended 201 KAR 43:030, it indirectly provides a \$100 fee.

(9) TIERING: Is tiering applied? Tiering is not applied because similarly situated licensees are treated similarly under this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This regulation impacts the Kentucky Applied Behavior Analysis Licensing Board.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$100 per applicant for retired or inactive licensure. An unknown number will apply

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? See 3(a)

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? See 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: